



## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9963-45-Region 10]**

### **Re-Proposal of an NPDES General Permit for Offshore Seafood Processors in Federal Waters off the Washington and Oregon Coast (Permit Number WAG520000)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of re-proposal of General Permit.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 10 re-proposes a National Pollutant Discharge Elimination System (NPDES) General Permit for Offshore Seafood Processors in Federal Waters off the Washington and Oregon Coast (Permit Number WAG520000). On August 24, 2015, EPA released a draft NPDES General Permit for public review. The public comment period closed on October 8, 2015. Based on the comments received, EPA has made revisions to the draft General Permit. EPA is re-proposing a revised draft General Permit, revised Fact Sheet and a revised Biological Evaluation. EPA is only accepting comments on permit conditions that are different from those proposed in the draft General Permit that was issued for review and comment on August 24, 2015.

Specifically, EPA seeks public comment on the following proposed changes: a seasonal prohibition on wastewater discharges in waters shallower than 100 meters in depth and a year-round discharge prohibition over the Heceta/Stonewall Banks complex; clarification on the jurisdiction of the General Permit; the addition of a Best Management Practice (BMP) that vessels be moving while discharging in order to aid dispersion of the discharge; clarification of terminology used in the General Permit; clarification of the sea surface monitoring requirements; provisions to mitigate impact to seabirds; updates to the standard NPDES

language and conditions; revisions to the Notice of Intent (NOI) for permit coverage; revisions to the Annual Report; and other factors that the EPA considered prior to re-proposing this draft General Permit based on comments received (i.e., effluent monitoring, harmful algal blooms and scientific study sites).

**DATES:** The public comment period for the re-proposed General Permit for Offshore Seafood Processors in Federal Waters off the Washington and Oregon Coast will be 45 days from the date of publication of this Notice. Comments must be received or postmarked by no later than midnight Pacific Standard Time, [INSERT DATE 45 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. EPA will only consider comments on the re-proposed permit provisions. Comments submitted previously on the initial draft General Permit need not be resubmitted; comments addressing permit provisions or issues beyond the scope of this re-proposal will not be considered.

**ADDRESSES:** EPA will consider comments on the re-proposed permit provisions before making its final decision. You may submit comments by any of the following methods:

Mail: Send paper comments to Catherine Gockel, Office of Water and Watersheds, Mail Stop OWW-191, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101-3140.

E-mail: Send electronic comments to [gockel.catherine@epa.gov](mailto:gockel.catherine@epa.gov)

Hand Delivery/Courier: Deliver comments to Catherine Gockel, Office of Water and Watersheds, Mail Stop OWW-191, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101-3140.

Call (206) 553-0523 before delivery to verify business hours.

Viewing and/or Obtaining Copies of Documents. A copy of the draft General Permit and the Fact Sheet, which explains the proposal in detail, may be obtained by contacting EPA at 1 (800) 424-4372. Copies of the documents are also available for viewing and downloading at:

<https://yosemite.epa.gov/r10/water.nsf/NPDES+Permits/DraftPermitsORWA>.

**FOR FURTHER INFORMATION CONTACT:** Catherine Gockel, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10, Mail Stop OWW-191, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101-3140, (206) 553-0325, [gockel.catherine@epa.gov](mailto:gockel.catherine@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Public Hearing. Persons wishing to request a public hearing may do so, in writing, by the expiration date of this public comment period. A public hearing is a formal meeting whereby EPA officials hear the public's views and concerns about an EPA action or proposal. A request for a public hearing must state the nature of the issues to be raised, reference the NPDES permit name and permit number, and include the requester's name, address, and telephone number.

Document Viewing Locations. The re-proposed General Permit and Fact Sheet may also be viewed at the following location: EPA Region 10 Library, Park Place Building, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101; (206) 553-1289. EPA's current administrative record for the draft General Permit is available for review at the EPA Region 10 Office, Park Place Building, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101, between 9:00 a.m. and 4:00 p.m., Monday through Friday. Contact Catherine Gockel at [gockel.catherine@epa.gov](mailto:gockel.catherine@epa.gov) or (206) 553-0325.

State Water Quality Standards and Certification. The General Permit's area of coverage is only in federal waters, thus EPA is not seeking 401 certification from any State or Tribe. However, seafood waste discharged under this General Permit could potentially affect waters of Washington and Oregon. EPA has sent the draft General Permit to the States of Oregon and Washington as required under Section 401(a)(2) and received feedback from each State.

Coastal Zone Management Act - Federal Consistency Determination. Section 307 of the Coastal Zone Management Act of 1972 (CZMA) requires that federal actions, within and outside the coastal zone, which have reasonably foreseeable effects on any coastal use (land or water) or natural resource of the coastal zone be consistent with the enforceable policies of a state's federally approved coastal management program. Federal agency activities must be consistent to the maximum extent practicable with the enforceable policies of a state coastal management program, and license and permit and financial assistance activities must be fully consistent. EPA has submitted CZMA federal consistency determinations to Washington and Oregon. The consistency determinations conclude that the General Permit is consistent with the enforceable policies of each State. Both States will now review the consistency determinations and General Permit, and will provide their own opportunities for public notice.

Endangered Species Act. Section 7 of the Endangered Species Act, 16 U.S.C. 1531-1544, requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to affect any threatened or endangered species. EPA analyzed the discharges proposed to be authorized by the draft General Permit and their potential to adversely affect any of the threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges in a Biological Evaluation dated August 2015. On December 18, 2015, NMFS concurred with EPA that the proposed action is not likely to adversely affect the ESA-listed fish, marine mammals, and turtles under NMFS jurisdiction. On September 29, 2015, EPA received a response from USFWS indicating that the draft General Permit has the potential to affect ESA-listed or migratory birds. EPA has updated its Biological Evaluation to reflect changes to the re-proposed General Permit. EPA has reviewed the re-proposed draft permit and determined that the proposed changes would not alter the original conclusions that the

discharges may affect, but are not likely to adversely affect listed, proposed, and candidate species or their designated critical habitat areas. The Fact Sheet, the re-proposed draft General Permit, and the revised Biological Evaluation will be sent to NMFS and USFWS for review during the public comment period.

Essential Fish Habitat. The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with NMFS when a proposed permit action has the potential to adversely affect Essential Fish Habitat (EFH). The EPA submitted a Biological Evaluation dated August 2015 to NMFS, which included an EFH assessment. The EFH assessment concluded that the discharges authorized by the draft General Permit will not adversely affect EFH. On December 18, 2015, the NMFS communicated to the EPA that the proposed action could adversely affect EFH because of impacts to water quality and to benthic conditions. The NMFS provided conservation recommendations to avoid, mitigate, or offset the impact of the proposed action on EFH. The EPA has considered these recommendations and responded via letter.

Executive Order 12866. The Office of Management and Budget exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Paperwork Reduction Act. EPA has reviewed the requirements imposed on regulated facilities in the draft General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

National Marine Sanctuaries Act. Section 304(d) of the NMSA (16 U.S.C § 1434(d)) requires federal agencies to consult with the Secretary of Commerce, through NOAA, regarding any federal action or proposed action, including activities authorized by federal license, lease, or permit, that is likely to destroy, cause the loss of, or injure any sanctuary resource. In a letter dated May 25, 2016, the Sanctuary provided the EPA with recommended alternatives to

protect Sanctuary resources and minimize or mitigate injury to Sanctuary resources associated with the proposed General Permit. The EPA has considered the Sanctuary's recommendations and has responded via letter.

Regulatory Flexibility Act. Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., a federal agency must prepare an initial regulatory flexibility analysis “for any proposed rule” for which the agency “is required by section 553 of the Administrative Procedure Act (APA), or any other law, to publish general notice of proposed rulemaking.” The RFA exempts from this requirement any rule that the issuing agency certifies “will not, if promulgated, have a significant economic impact on a substantial number of small entities.” EPA has concluded that NPDES General Permits are permits, not rulemakings, under the APA and thus not subject to APA rulemaking requirements or the RFA.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342. I hereby provide public notice of the revised draft General Permit for Offshore Seafood Processors in Federal Waters off the Washington and Oregon Coast in accordance with 40 CFR 124.10.

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Dated: May 25, 2017.

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Christine Psyk,  
Acting Director,  
Office of Water and Watersheds ,  
Region 10.

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